

Alletta S. Brenner, OSB No. 142844
ABrenner@perkinscoie.com
Megan K. Houlihan, OSB No. 161273
MHoulihan@perkinscoie.com
Garmai J. Gorlorwulu, OSB No. 213731
GGorlorwulu@perkinscoie.com
PERKINS COIE LLP
1120 N.W. Couch Street, Tenth Floor
Portland, Oregon 97209-4128
Telephone: +1.503.727.2000
Facsimile: +1.503.727.2222

*Attorneys for Defendant Amazon.com, Inc. and
Amazon.com Services LLC*

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

SHIMADZU U.S.A MANUFACTURING,
INC.,

Plaintiff,

v.

AMAZON.COM, INC. and AMAZON.COM
SERVICES, LLC

Defendants.

Case No. 3:22-cv-1967

NOTICE OF REMOVAL

Defendants Amazon.com Services LLC and Amazon.com, Inc. (collectively “Amazon”) by and through counsel, hereby give notice of removal of the above action from the Circuit Court for the County of Clackamas Oregon (“Circuit Court”) to the United States District Court for the District of Oregon, Portland Division, pursuant to 28 U.S.C. §§ 1332(a), 1441 and 1446. As set forth below, this Court has original diversity jurisdiction over this action pursuant to Section 28 U.S.C. § 1332. All requirements for removal of this action are met through the allegations

1- NOTICE OF REMOVAL

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contained in the pleadings filed in the Circuit Court and in this Notice of Removal. In support of this Notice of Removal, Amazon states as follows:

BACKGROUND

1. There is pending in the Circuit Court of the County of Clackamas, Oregon, a Complaint titled *Shimadzu U.S.A. Manufacturing, Inc. vs. Amazon.com, Inc.*, Case No. 22CV40460 (the “State Court Action”). The Original Complaint in the State Court Action was filed on November 29, 2022. A copy of the Complaint is attached hereto as **Exhibit A**. An Amended Complaint in the State Court Action was filed on or about December 9, 2022. A copy of the Amended Complaint is attached hereto as **Exhibit B**.

2. The Original Complaint in the State Court Action was served on Amazon’s registered agent on or about November 30, 2022. A copy of the Summons is attached hereto as **Exhibit C**. A Declaration of Service of Summons; Complaint was filed on or about December 6, 2022. A copy of the Declaration of Service is attached hereto as **Exhibit D**. A Certificate of Service for the Amended Complaint in the State Court Action was filed on or about December 9, 2022. A copy of the Certificate of Service for the Amended Complaint is attached hereto as **Exhibit E**.

3. Plaintiff alleges that its property sustained damage when a TalentCell Technology (“TalentCell”) Lithium Power Bank Model YB1206000 rechargeable lithium ion battery pack (the “Battery”) exploded and caused a fire. **Ex. B** ¶ 4–6. Plaintiff alleges that the Battery was purchased from Amazon. *Id.* ¶ 4, 10–11.

4. Plaintiff alleges one claim for Product Liability (Count I) against Amazon, on the grounds that the Battery started a fire due to “an indeterminate manufacturing defect.” *Id.* ¶¶ 6, 9–12.

5. Plaintiff alleges that as a result of the aforementioned fire, it sustained damages in the amount of \$6,484,714.30. *Id.* ¶ 8.

6. This notice of removal is Amazon’s first filing in response to the Complaint.

REQUIREMENTS FOR REMOVAL

7. This Notice of Removal is filed within thirty days of the date upon which Amazon was served with the Complaint and is therefore timely pursuant to 28 U.S.C. § 1446(b).

8. The State Court Action is properly removed under 28 U.S.C. § 1441(a), because the State Court Action is subject to the original jurisdiction of this Court pursuant to 28 U.S.C. § 1332 based on diversity of citizenship, as explained below.

A. Amount in Controversy is Greater than \$75,000

9. 28 U.S.C. § 1332(a) grants this Court original jurisdiction of civil actions where the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different states.

10. Plaintiff’s Complaint alleges compensatory damages totaling \$ 6,484,714.30. *See Ex. B* ¶ 13. Therefore, the amount in controversy, exclusive of interest and costs, exceeds \$75,000.

B. Complete Diversity Exists between the Parties

11. Plaintiff Shimadzu U.S.A. Manufacturing, Inc., is a domestic Oregon corporation with its principal place of business in Clackamas County, Oregon. **Ex. B ¶ 1.**

12. For purposes of analyzing diversity in the context of removal, the citizenship of a limited liability company is determined by the citizenship of each of its members. *Johnson v. Columbia Props. Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006).

13. For purposes of analyzing diversity in the context of removal, a corporation is deemed to be a citizen of each state in which it is incorporated and of each state where it has its principal place of business. 28 U.S.C. § 1332(c)(1).

14. Amazon.com, Inc. is incorporated in Delaware and its principal place of business is in Washington. *See* Amazon's Corporate Disclosure Statement (filed concurrently herewith). Amazon.com, Inc., therefore, is a citizen of the states of Delaware and Washington.

15. Amazon.com Services LLC is a limited liability company with one member, Amazon.com Sales, Inc. Amazon.com Sales, Inc. is incorporated in Delaware and its principal place of business is in Washington state. *See* Amazon's Corporate Disclosure Statement (filed concurrently herewith). Defendant, therefore, is a citizen of the states of Delaware and Washington.

16. This action is properly removed from the Circuit Court to this Court under 28 U.S.C. § 1441, because this Court has original jurisdiction over this action under 28 U.S.C. § 1332 and this Notice of Removal meets the requirements of 28 U.S.C. § 1446.

C. Consent, Notice to Other Parties and Notice to Circuit Court

17. Written notice of the filing of this Notice of Removal will promptly be given to Plaintiff and the Clerk of the Circuit Court for the County of Clackamas, Oregon, as required by 28 U.S.C. § 1446(d).

18. There are no other defendants in the action apart from Amazon, so no other notice or consent is required for removal.

D. Pleadings in the State Court Action

19. In accordance with 28 U.S.C. § 1446(a), attached to this Notice of Removal is a copy of each document filed in the State Court Action.

20. Additionally, this Notice of Removal is accompanied by a Civil Cover Sheet

WHEREFORE, Amazon respectfully requests that this case proceed before this Court as an action properly removed.

DATED: December 21, 2022.

PERKINS COIE LLP

By: /s/ Alletta S. Brenner

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*Attorneys for Defendant Amazon.com, Inc. and
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CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **NOTICE OF REMOVAL** on the following:

George M. Shumsky
Law Offices of Shumsky & Backman
P.O. Box 56028
Portland, OR 97238-6028
george@shumsky-backman.com

Attorney for Plaintiff

to be sent by the following indicated method or methods, on the date set forth below:

- ☒ by **sending via the court's electronic filing system**
☒ by **email**
☒ by **mail**
☐ by **hand delivery**

DATED: December 21, 2022

PERKINS COIE LLP

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